IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.Rev.Pet.No. 571 of 1999()

CRA.323/1997 of IST ADDL. SESSIONS COURT, THRISSUR DT.17.6.1999
ST.1107/1996 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHAVAKKAD DT.14.11.1997.

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REVN. PETITIONER: ACCUSED - APPELLANT

NARAYANAN, SON OF VELU,
NARANGAPARAMBIL HOUSE,
P.O. KAVALAPPARA,
OTTAPALAM TALUK, PALAKKAD DISTRICT.

BY ADV. SMT.PREETHY KARUNAKARAN
SMT.M.R.MINI

RESPONDENT: COMPLAINANT - RESPONDENT

STATE OF KERALA, REP.BY THE
PUBLIC PROSECUTOR, HIGH COUR OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP. NO.2559/1999 IN CRL.RP.NO.571/1999

DISMISSED

26.06.2007 **SD/- K.R.UDAYABHANU , JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.R.P.NO.571 of 1999

DATED THIS THE 26th June 2007

ORDER

The revision petitioner stands convicted for the offence under Sections 279 and 338 I.P.C.and sentenced to undergo rigorous imprisonment for one month each for the offences under Sections 279 and 338 I.P.C. The prosecution case is that on 28-11-1995 at 7.30 in the evening the accused drove tempo bearing Registration No. KLL-3117 along Guruvayur-Thrissur road in a rash and negligent manner and hit on a bicycle and then an autorikshaw and then the autorikshaw hit CW2/PW2, a lady who was walking along the road and she sustained fracture of the left clavicle . The evidence adduced in the matter consisted of the testimony of Pws.1 to 9 and Exts.P1 to P6. Both the courts have concurrently found that the accused is guilty of the offences alleged.

Of the prosecution witnesses,PWs.1 to 3 are the occurrence witnesses. PW2, who sustained clavicle fracture, did not support the prosecution and was treated as hostile. On the other hand, PW1, the rider of the bicycle and PW3, an independent witness, have supported the prosecution version. It is the version of PW3 that when the accused attempted to overtake an autorikshaw, the same hit on the

bicycle and then on the autorikshaw that was parked on the road. The contention of the revision petitioner is that there is no proper evidence as to the identification. I find that Pws.1 and 3 have stated that they have identified the accused at the spot. It is pointed out that PW1 has deposed that at the time it was not dark whereas PW3 has stated that at the time it was dark and there was street light. The above contradiction brought out in the cross examination is of no consequence as Pws.1 and 3 have identified the accused. There is no suggestion in the cross examination that there was any contradiction with respect to the previous statement of Pws.1 and 3 in this regard. In the circumstances, so far as the identification of accused is concerned, the version of Pws.1 and 3, I find, stands not discredited. In the circumstances and in the light of the concurrent findings of the courts below, I find that there is no scope for interference in the revisional jurisdiction of this Court. The conviction is confirmed.

Counsel for the petitioner has pleaded for leniency pointing out that the incident has taken place about 12 years back and that so far the accused was facing the criminal proceedings. In the circumstances and in view of the above facts the sentence is modified to pay a fine of Rs.1000/- for the offence under Section 279 I.P.C.and

in default to undergo simple imprisonment for three months. He is also sentenced to pay a fine of Rs.1,000/- for the offence under Section 338 I.P.C.and in default to undergo simple imprisonment for three months. The Crl.revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO.571 of 1999

ORDER

26-6--2007